

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

ALDERWOOD SURGICAL CENTER, LLC,
a Washington limited liability company;
NORTHWEST NASAL SINUS CENTER
P.S., a Washington professional service
corporation; and JAVAD A. SAJAN, M.D.,

Defendants.

NO. 2:22-cv-01835-RSM

SUPPLEMENTAL DECLARATION OF
MATTHEW GEYMAN IN SUPPORT OF
STATE'S MOTION TO COMPEL
PRODUCTION OF CONSUMER NAMES
AND EMAIL ADDRESSES IN KEY
DOCUMENTS

NOTE FOR CONSIDERATION:
Friday, September 22, 2023

I, Matthew Geyman, hereby declare as follows:

1. I am one of the counsel for Plaintiff State of Washington in this action, and make this supplemental declaration based up on my personal knowledge and upon the files and records in this case.

2. Attached as **Exhibit A** is a true and correct copy of an email chain titled "negative review hair transplant," dated May 4, 2018 to May 8, 2018, produced by Defendants and Bates numbered ASC005377-ASC005380.

3. Attached as **Exhibit B** is a true and correct copy of a document titled “Release, Settlement and Non-Disclosure Agreement,” dated 2018, produced by Defendants and Bates numbered ASC002339-ASC002344.

4. Attached as **Exhibit C** is a true and correct copy of the Declaration of Ash Navone, dated September 14, 2023.

5. Attached as **Exhibit D** is a true and correct copy of the Declaration of Shieliene Raines, dated September 19, 2023.

6. Defendants’ Opposition to the State’s Motion to Compel asserts that “in the [AGO’s] response to a Public Records Request, it produced PHI for two transgender patients including names, dates of birth, IP addresses, and email address [sic] as well as PHI about a third patient.” *See* Dkt. #37, p. 7 & n.20.

7. The documents Defendants identified were attachments to consumer complaints filed with the Attorney General’s Office (AGO) that were produced to Defendants through the public records request process. These documents were produced as public records in the same form they were submitted to the AGO, as required under State public records law.

8. Each of the consumers identified in these complaints agreed when they submitted their complaints to the AGO that their complaint and communications with the AGO relating to the complaints were public records subject to disclosure in response to a public records request.

9. Attached as **Exhibit E** is a true and correct copy of the AGO’s Consumer Complaint Form, which provides in relevant part: “I understand that by submitting this complaint to the Washington State Attorney General’s Office my complaint . . . and all communications with the Attorney General’s Office will become public records under state law. Public records are subject to disclosure in response to requests for public records and my complaint and all related documents may be disclosed to the public.”

1 10. Attached as **Exhibit F** is a true and correct copy of an email titled “Phone call,”
2 dated October 20, 2022, produced by Plaintiff to Defendants and Bates numbered WA-AG-
3 ALLURE00003841.

4 11. On Thursday, September 7, 2023, I filed the Declaration of Matthew Geyman in
5 Support of State’s Motion to Compel Production of Consumer Names and Email Addresses in Key
6 Documents, Dkt. #32, which attached nineteen (19) exhibits. Five of the exhibits, Dkt. #32-1,
7 #32-4, #32-5, #32-6 & #32-7, did not have necessary redactions that were required under
8 LCR 5.2(a).

9 12. One of the five exhibits failed to redact the name of a minor child, as required under
10 LCR 5.2(a)(2). I learned of this error on Friday, September 8, 2023, at 12:26 pm, when Defendants’
11 counsel sent me an email saying that one of the exhibits to my declaration, referring to the
12 Declaration of David Lundin, contained the name and birthdate of a minor. *See* Dkt. #38-2.

13 13. The Declaration of David Lundin, Dkt. #32-5, refers to his child but does not reveal
14 the child’s name or birthdate. Dkt. #32-5, pp. 1-6. The first exhibit to the declaration, Dkt. #32-5,
15 p. 8, attached a bank statement that was properly redacted. Dkt. #32-5, pp. 7-8. The second exhibit,
16 however, attached a document entitled Mutual Non-Disclosure Agreement that contained the
17 child’s name, birth date, and email address, *id.*, pp. 9-12, and the third exhibit attached a document
18 that contained the child’s first name. Dkt. #32-5, pp. 13-15.

19 14. Before filing my declaration, I reviewed all nineteen exhibits to make sure they were
20 correct. During my review, I noticed that the bank statement attached to Dr. Lundin’s declaration
21 was redacted, but did not realize that the other exhibits showed the name and birthdate of his child.
22 I knew we had been careful to avoid using the child’s name in the declaration, Dkt. #32-5, but did
23 not realize that these two exhibits were not redacted.

24 15. At 1:58 pm, on Friday, September 8, 2023, in response to their email, I replied to
25 Defendants’ counsel and told them I would file a praecipe per LCR 7(m) asking the Court to
26 substitute a corrected exhibit with the proper redactions. Dkt. #38-2. With the assistance of

1 professional staff, I then corrected the unredacted exhibit pages and prepared a praecipe to file with
2 the Court. When I attempted to file the praecipe at approximately 3:15 pm, however, I was unable
3 to file it using the CM/ECF system because of a temporary system outage.

4 16. I then sent a follow-up email to Defendants' counsel at 4:13 pm that afternoon, still
5 on Friday, September 8, 2023, and told them I was trying to file the praecipe to correct the error but
6 was unable to do so because the CM/ECF filing system was down. A true and correct copy of that
7 email is attached as **Exhibit G**. This follow-up email to Defendants' counsel was part of the
8 same email chain they submitted to the Court, but they failed to include it in the exhibit they
9 provided to the Court. *See* Dkt. #38-2.

10 17. Because the CM/ECF system was down, I called the Clerk's Office a second time
11 and asked if the unredacted exhibit, Dkt. #32-5, could be sealed. The individual I spoke to said they
12 would seal the exhibit, and when I checked the docket at the end of the day on Friday, it had been
13 sealed. On Monday morning, September 13, 2023, at 7:41 am, when the CM/ECF system was
14 operating again, I filed the praecipe and attached the redacted exhibit. Dkt. #33, #33-1.

15 18. As a result of this redaction error, I and others in my office further reviewed all of
16 the other exhibits to my declaration to see if there were any other redaction errors. We discovered
17 that four other exhibits, Dkt. #32-1, #32-4, #32-6 & #32-7, were also missing redactions of the
18 birthdates to show only the birth year. We then immediately corrected those redaction errors by
19 filing a second praecipe which submitted the corrected redacted exhibits, and asked the Clerk's
20 Office to substitute those corrected exhibits. *See* Dkt. #34, #34-1, #34-2, #34-3, #34-4.

21 19. My colleagues and I have reached out to the individuals whose information was
22 improperly redacted to request a time to inform them what happened, to apologize for the mistake,
23 and to address any concerns or questions they might have. As of today, either I or a colleague has
24 been able to speak directly with two of the affected individuals, as further detailed below.

25 20. Today, September 22, 2023, I spoke with Dr. Lundin and explained what happened.
26 I told him that the name, birthdate, and email address of his child could be seen in a public court

1 filing for almost twenty-four hours from late afternoon on Thursday, September 7, 2023, until late
2 afternoon on Friday, September 8, 2023. I apologized and assured him that we take these matters
3 very seriously. He said he appreciated that I promptly corrected the mistake by asking the Clerk's
4 Office to seal the unredacted exhibit and then substituting the corrected document. He also told me
5 that I could convey to the Court that he is not overly concerned about what happened after hearing
6 my explanation in which I conveyed the information above.

7 21. Also today, September 22, 2023, a colleague spoke with Victoria Hester. My
8 colleague explained that we had made a mistake in failing to redact the month and day of their
9 birthday in the exhibit to Victoria's declaration, Dkt. #32-4, and apologized for that mistake.
10 Victoria expressed their appreciation for being informed, that they were not concerned, and that
11 they hoped the error would not prevent their declaration from being considered in this case.

12 22. I greatly regret these redaction errors. I take full responsibility for these errors as the
13 attorney who prepared and filed my declaration. The attorneys and professional staff in the Attorney
14 General's Office are very conscientious and rarely make these kinds of mistakes. As a result of
15 these redaction errors, the attorneys and staff working on this case have discussed specific enhanced
16 procedures for ensuring such mistakes do not happen again, and we will make every possible effort
17 to prevent it from happening again.

18 I declare under penalty of perjury under the laws of the State of Washington that the
19 foregoing is true and correct.

20 DATED this 22nd day of September, 2023.

21
22 /s Matthew Geyman
23 MATTHEW GEYMAN
24
25
26

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I caused a copy of the foregoing to be served on all counsel of record via the ECF system.

DATED this 22nd day of September, 2023, at Seattle, Washington.

/s Matthew Geyman

MATTHEW GEYMAN
Assistant Attorney General